

IRM PROCEDURAL UPDATE

DATE: 02/08/2024

NUMBER: wi-03-0224-0231

SUBJECT: Form 13975 Paragraphs Updated; EC156 Clarification

AFFECTED IRM(s)/SUBSECTION(s): 3.22.3

CHANGE(s):

IRM 3.22.3.11(6) Updated early filed returns tax year to be 202412.

(6) In some instances, the taxpayer may file a short period Form 1040-NR before the end of the tax year due to the date of final departure from the United States. These early filed returns must be processed as 202412 (calendar-year returns). SSPND 480 and attach Form 4227 to the return, notating "Hold for 2024 processing."

Exception: If the return is received prior to August 1, SSPND 640 and use Form 9143 to advise the taxpayer that they must refile in January.

IRM 3.22.3.104(2) Updated correspondence paragraph for Form 13975 for EC 028.

(2) Refer to IRM 3.12.3, *Error Resolution, Individual Income Tax Returns, EC 028*, for invalid conditions and correction procedures. If corresponding for missing or incomplete information follow these instructions when using these forms:

- Form 13900 for Letter 4087C - select paragraph f.
- (Form 1040-SS) Form 13975 for Letter 2894C - select paragraph Y of Letter 2894C.
- (Form 1040-SS (sp)) Form 13975 for Letter 2894C/SP - select paragraph Y of Letter 2894C/SP.

IRM 3.22.3.105(2) Updated correspondence paragraph for Form 13975 for EC 029.

(2) Refer to IRM 3.12.3, *Error Resolution, Individual Income Tax Returns, EC 029*, for correction procedures and invalid conditions. If corresponding follow these instructions when using these forms:

- Form 13900 for Letter 4087C - select paragraph letter g.
- (Form 1040-SS) - select paragraph Z on Form 13975 for Letter 2894C.
- (Form 1040-SS (sp)) - select paragraph Z on Form 13975 for Letter 2894C/SP.

IRM 3.22.3.152.2 Updated line numbers and references in EC 256 to clarify the process of determining total foreign earned income.

(1) Correct coding and transcription errors and misplaced entries on displayed fields.

(2) Read and implement all applicable instructions in this error code before using the clear field.

(3) If a Form 2555 includes foreign earned income for both the primary and secondary taxpayers see the procedures in "General Requirements for Form 2555" at IRM 3.22.3.42.1.

(4) If there are multiple Form 2555 for a single taxpayer then GTSEC 34 or 35 and enter the combined information for all available fields.

(5) If the taxpayer indicates on Form 1040 or on Form 2555 that employer provided meals and lodging are excluded under IRC 119 then allow the additional amount excluded under IRC 119.

(6) **All foreign earned income excluded on Form 2555 must be reported as income on the applicable income lines of Form 1040 and Schedule 1.** Follow the procedures in EC 218 at IRM 3.22.3.173.2.3.1 (4) for reviewing income and adjusting the return if the taxpayer failed to include foreign earned income on Form 1040. Do not adjust Field 3419, Field 3422G, Field 3425, or similar fields in Section 35.

Note: If the taxpayer failed to include any of his/her foreign earned income on page 1 of the Form 1040 and/or Schedule 1, be sure to also assign TPNC 385 when EC 218 generates.

(7) If the taxpayer is excluding **unearned income** (e.g., interest, dividends, pensions, rental income) on Form 2555 then adjust Section 04 and Section 34/35 using the instructions in EC 218 at IRM 3.22.3.173.2.3.1 (4)(c). Assign TPNC 384 when EC 218 generates.

(8) In most cases when only wages are excluded, Field 04OTI is a negative amount that is the same as the positive amount in Field 3445 and 3545. If Field 04OTI doesn't match the total of Fields 3445 and 3545 follow the table below.

Note: If IRC 965 income is notated on line 8, GTSEC 01 and enter F in Field 01RPC and transmit. SSPND 300 when EC 156 redisplay.

If	And	Then
Line 9, Schedule 1, of Form 1040 includes earned income,	The earned income is identified as wages on line 9 or on an attachment, Note: If the earned income on line 9 is other than wages see paragraph (8) below.	1. Delete the wages amount from Field 04OTI. 2. Add the amount to Field 03WG and Field 03TWG.
Line 9, Schedule 1, includes amounts other than the foreign earned income exclusion (e.g., Net Operating Loss (NOL),	A manual calculation shows that the amount from Field 3445 and Field 3545 was transferred correctly to line 9,	Enter a C in the Clear Code field.
Line 45 of Form 2555, is positive,	The exclusion amount transferred to Line 8d is also positive,	1. Recompute the amount included in Field 04OTI with the exclusion amount as a negative. 2. If EC 218 generates assign TPNC 308.
Line 45 of Form 2555 is a negative amount,	The exclusion amount on line 8d is positive,	1. Delete the amount in Field 3445 and 3545, 2. If EC 156 generates enter "C" in the Clear Code field.

(9) Foreign earned income is reported in Part IV of Form 2555, with wages reported on line 19; business, farming, and professional income on line 20a; and partnership income on line 20b. The foreign earned income on Form 2555 must also be reported as earned income on Form 1040 along with applicable supporting schedules.

If	Then
The taxpayer is reporting income on line 20a of Form 2555 AND no Schedule C or Schedule F is attached,	SSPND 215 for missing Schedule(s) (See Note below)
The taxpayer is reporting income on line 20b of Form 2555 AND no Schedule E is attached,	SSPND 215 for missing Schedule E
The taxpayer is reporting earned income on Line 8, Schedule 1, Form 1040, does not indicate the income is wages, and excludes the income on Form 2555,	SSPND 215 for missing Schedule C (See Note below)

Note: When corresponding for Schedule C and/or Schedule F, follow the instructions in IRM 3.22.3.133.1 to determine if the taxpayer may be liable for self-employment tax. If the taxpayer may be liable, use Form 13900 and select paragraph 6.

(10) If foreign earned income other than wages is excluded then a manual computation is necessary to determine the correct exclusion amount. The taxpayer cannot claim any adjustment, deduction or expense on Form 1040 that is definitely related to the excluded income. The foreign earned income exclusion on Form 2555 must be reduced by the allocable amounts. If earned income other than wages is being reported follow instructions in the table below. Examples can be found in IRM Exhibit 3.22.3-16.

Exception: #	
#	
Steps	Action To Be Taken
<p>Step 1. Calculate the total foreign earned income for the taxpayer claiming the exclusion by adding the taxpayer's amounts for:</p> <ul style="list-style-type: none"> • Foreign wages (line 19, Form 2555) • Line 7, Schedule C • Line 9, Schedule F • Line 29a, column (k), Schedule E <p>Note: Only include income that the taxpayer has identified as foreign earned income.</p>	Use this amount as Total Foreign Earned Income (FEI) in the steps below.
<p>Step 2. Percentage for Allocation Divide the amount on line 43, Form 2555 by the Total FEI from Step 1 (maximum exclusion amount is \$120,000 for TY 2023)</p> <p>Note: Line 43 is the maximum exclusion amount on line 42 and the housing exclusion on line 36.</p>	Use this percentage in Step 3 and 4.
<p>Step 3. Allocable Adjustments Calculate adjustments by adding the amounts on lines 11-25, Schedule 1 Form 1040 that are directly related to the FEI (e.g., SE tax deduction, moving expenses),</p>	Multiply this amount by the percentage in Step 2 to figure Allocable Adjustments.
<p>Step 4. Allocable Expenses Calculate the total expenses and losses related to the FEI by adding:</p> <ul style="list-style-type: none"> • Line 28 plus Line 30, Schedule C • Line 33, Schedule F • Line 29b, column (h), Schedule E 	Multiply this amount by the percentage in Step 2 to figure Allocable Expenses.

<p>Step 5. Total Foreign Earned Income Exclusion Calculate the FEI exclusion:</p> <ul style="list-style-type: none"> • Line 43, Form 2555. If field 3445/ 3545 amount was adjusted after following instructions in paragraph 6 use the adjusted amount in the calculation. • Less Allocable Adjustments (Step 3) • Less Allocable Expenses (Step 4) 	<ol style="list-style-type: none"> 1. If the calculated Total Foreign Earned Income Exclusion is greater than or equal to line 45, Form 2555, enter a "C" in the Clear Field. 2. If the calculated total is less than line 45, Form 2555, then enter the calculated amount in Field 04OTI (as a negative) and Field 3445/3545 (as a positive). If EC 218 generates assign TPNC 303. <p>Note: Adjust Field 04OTI to include any amounts on line 8 other than the FEI exclusion.</p>
---	---

IRM 3.22.3.158.2(1) Updated Form 13975 paragraph to match current year form for EC 190.

(1) **Correction Procedures** - The advance payment of Premium Tax Credit cannot be reconciled on Form 1040-SS (sp) or Form 1040-SS. When EC 190 generates, go to the bottom and transmit. If EC 190 regenerates, SSPND 215 and correspond using paragraph 0 (zero) on Form 13975 for Letter 2894C/SP.

IRM 3.22.3.166.4(3) Updated correspondence paragraphs for Form 13975 for EC 209.

(3) Whenever the FSC is 2 and it appears that the taxpayer is attempting to pay SE tax for both self and spouse but only one Schedule SE is present SSPND 215 and select paragraph L on Form 13975 for tax years 2022 and prior, for tax years 2023 and forward select paragraph K.

IRM 3.22.3.197.2.2 Added guidance to use XML data on MeF to view Form 8833 when it is unreadable in the Employee User Portal (EUP).

(1) MeF will generate CCC Y on Form 1040 when Form 8833, *Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)*, is attached to the return. Review the Form 8833 and the tax return for an indication that the taxpayer is exempting income based on a tax treaty.

Note: If Form 8833 is unreadable in EUP then utilize the Form 1040 XML data to verify the information on Form 8833.

If a tax treaty income exemption is claimed, follow the instructions in EC 218, *Tax Treaty Claimed on Form 1040*, at IRM 3.22.3.173.2.3.3. Enter "C" in the Clear Code field at EC 260 after following the instructions and any other instructions for EC 260 that may apply.

IRM 3.22.3.256.2(9) (b) Updated correspondence paragraph for Form 13975 for EC 344.

(9) **Section 47.** Section 47 must be present for calculating ACTC. Section 47 is transcribed from Part II of Form 1040-SS (sp)/SS. Follow these instructions if Section 47 isn't present:

If	And	Then
a) The taxpayer is paying SE Tax on Part I, line 3,		GTSEC 47 and transmit.
b) The taxpayer is not paying SE Tax,	Page 2 is missing,	SSPND 215 and correspond for Part II and supporting documentation using Form 13975 <ul style="list-style-type: none"> For tax year 2022 and prior use paragraph G, For tax year 2023 and forward use paragraph F.

IRM 3.22.3.256.2(13) (a) Updated correspondence paragraph for Form 13975 for EC 344.

(13) Social security and Medicare tax withheld and one-half of SE tax are used in the calculation of ACTC. For tax years **other than TY 2017** follow these additional instructions to resolve EC 344.

Note: In response to Hurricane Irma and Maria, special procedures are allowed for TY 2017 returns. Follow the instructions in paragraph (14) below.

If	Then Form 1040-SS (sp)	Then Form 1040-SS
a) An amount is present in Field 47SSM (TY23 and later, Part II, line 13a; TY22 and prior, Part II line 2),	Documentation must be present to support the amount, such as Puerto Rico Form(s) W-2PR or Form(s) 499R-2. If not present SSPND 215 and use Form	Documentation must be present to support the amount, such as Puerto Rico Form(s) W-2PR or Form(s) 499R-2. If not present SSPND 215 and use Form

	13975 for Letter 2894C/SP. <ul style="list-style-type: none"> For PY23 and later use paragraph D, For PY22 and prior use paragraph E 	13975 for Letter 2894C/SP. <ul style="list-style-type: none"> For PY23 and later use paragraph D, For PY22 and prior use paragraph E
b) Supporting documentation is present,	Verify the amount in Field 47SSM by adding all supporting documentation.	Verify the amount in Field 47SSM by adding all supporting documentation.
c) The amount in Field 47SSM is different from supporting documentation,	<ol style="list-style-type: none"> Adjust the amount in Field 47SSM. Assign TPNC 395. 	<ol style="list-style-type: none"> Adjust the amount in Field 47SSM. Assign TPNC 383.
d) The taxpayer incorrectly figured ACTC, and the return is for current year, TY 2019, TY 2018 or for prior years TY 2015 or TY 2016. Note: For TY 2017 follow the instructions below in paragraph 14	Assign TPNC 395.	Assign TPNC 383.
e) The amount is different from the taxpayer amount, and the return is for TY 2014 and prior with 3 or more qualifying children,	# [REDACTED] #	# [REDACTED] #

IRM 3.22.3.256(3) Updated title of tridoc and tax year referenced in caution found in paren 3.

Error Code 344 - Additional Child Tax Credit Tax Year 2022 and later, 2020 and Prior

(3) On TY 2018 and prior returns, manually compute the credit and enter the correct amount in Field 94ACV prior to assigning a TPNC.

Note: Programming will compute Additional Child Tax Credit based on the qualification rules for TY 202112 which includes SSN requirements, maximum credit of \$1,500 per child and AGI thresholds.

Any line marked with a # is for Official Use Only

IRM 3.22.3.269.5.2(2) (c) Updated correspondence paragraph for Form 13975 for EC 366.

(2) Follow the instructions below if there is an error in excess Social Security Tax Withheld.

If the taxpayer	And	Then
a) Claims excess SST or RRTA,	<p>The taxpayer had one employer that withheld more than the maximum amount listed below:</p> <ul style="list-style-type: none"> • TY 2023 - \$9,932.40 • TY 2022 - 9,114.00 • TY 2021 - \$8,853.60 • TY 2020 - \$8,537.40 • TY 2019 - \$8,239.80 • TY 2018 - \$7,960.80 • TY 2017 - 7,886.40 • TY 2015 and 2016 \$7,347.00 • TY 2014 \$7,254.00 • TY 2013 \$7,049.40 • TY 2012 \$4,624.20 • TY 2011 \$4,485.60 • TY 2009 -2010 \$6,222.00 	<ol style="list-style-type: none"> 1. Delete the SST/RRTA from that employer. 2. Complete Form 3696-A to initiate the 404-C letter using fill-in paragraphs B, D and E. 3. When EC 366 generates, assign TPNC 331 on Form 1040-SS, 361 on Form 1040-SS (sp).
b) Claims excess SST or RRTA,	<p>The taxpayer had more than one employer, and the combined amount exceeds the maximum amount listed below:</p> <ul style="list-style-type: none"> • TY 2023 - \$9,932.40 • TY 2022 - \$9,114.00 • TY 2021 - \$8,853.60 • TY 2020 - \$8,537.40 • TY 2019 - \$8,239.80 • TY 2018 - \$7,960.80 • TY 2017 - \$7,886.40 • TY 2015 and 2016 \$7,347.00 • TY 2014 \$7,254.00 • TY 2013 \$7,049.40 • TY 2012 \$4,624.20 	<p>Enter the amount in Field 94ESV.</p> <p>Caution: If married filing jointly, each individual taxpayer must meet all criteria. When computing excess SST withheld, add supporting documentation (Form W-2, Form W-2AS, Form W-2CM, Form W-2GU, Form W-2VI or Form 499R-2/W-2PRs) for primary and secondary taxpayer separately.</p>

	<ul style="list-style-type: none"> • TY 2011 \$4,485.60 • TY 2009 -2010 \$6,222.00 	
c) Claims excess SST or RRTA,	No supporting documentation attached (Form W-2, Form W-2AS, Form W-2CM, Form W-2GU, Form W-2VI or Form 499R-2/W-2PRs)	SSPND 215 to correspond and use Form 13975 for Letter 2894C/SP. <ul style="list-style-type: none"> • For PY23 and later use paragraph D, • For PY22 and prior use paragraph E.
d) Incorrectly figured the amount of excess SST/RRTA,		<ol style="list-style-type: none"> 1. Enter the correct amount in Field 94ESV. 2. Assign TPNC 331 for Form 1040-SS, TPNC 361 for Form 1040-SS (sp).
e) Correctly figured the amount of excess SST/RRTA		Enter the amount into Field 94ESV.

IRM 3.22.3.269.5.3(2) (b) & (c) Updated correspondence paragraph for Form 13975 for EC 366.

(2) For **TY 2015 -TY 2021**, follow the procedures for Form 1040 Schedule 3, Line 12c (TY19, Line 13, box c) for Form 8885 in IRM 3.12.3, *EC 348*. To request missing items SSPND 215 and use Letter 2894C/SP. Select these paragraphs on Form 13975:

- a. Form 8885 is missing - paragraph O
- b. Invoices or proof of payments are missing - paragraph Q
- c. Proof of eligibility is missing- paragraph R

Reminder: Don't use AC 213 on international returns.